

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRIENDS OF GUALALA RIVER, et al.,
Plaintiffs,
v.
GUALALA REDWOOD TIMBER, LLC,
Defendant.

Case No. 20-cv-06453-JD

ORDER RE DISMISSAL

The Court previously denied a request for a preliminary injunction by plaintiffs Friends of Gualala River and the Center for Biological Diversity because the environmental claims alleged against defendant Gualala Redwood Timber (GRT) with respect to the Dogwood Timber Harvesting Plan (DTHP) had been fully and finally litigated in California state court, and so were barred by res judicata. *See Friends of Gualala River v. Gualala Redwood Timber, LLC*, 552 F. Supp. 3d 924, 933-37 (N.D. Cal. 2021). The Court dismissed the complaint under Federal Rule of Civil Procedure 12(c) for the same reasons. *See Friends of Gualala River v. Gualala Redwood Timber, LLC*, No. 20-cv-06453-JD, 2021 WL 4053413, at *1 (N.D. Cal. Aug. 3, 2021). Plaintiffs filed an appeal of the order denying an injunction, which they voluntarily dismissed. *See* Dkt. No. 105; *Friends of Gualala River v. Gualala Redwood Timber, LLC*, No. 21-16280, 2021 WL 5313632 (9th Cir. Aug. 13, 2021).

Although the res judicata orders arguably terminated the case, the Court granted plaintiffs leave to file an amended complaint. *Friends of Gualala*, 2021 WL 4053413 at *2. In August 2021, plaintiffs filed an amended complaint, Dkt. No. 104 (FAC), which repeated the barred claims, namely that GRT's logging work pursuant to the DTHP was "taking" and would continue to take endangered species in violation of the Endangered Species Act, 16 U.S.C. § 1538(a)(1)(B),

1 and did not make any new allegations about the project. GRT filed an answer, which re-asserted
2 res judicata as an affirmative defense. Dkt. No. 106 at 23.

3 Plaintiffs moved to strike the res judicata defense, Dkt. No. 107, which was in effect an
4 improper request for reconsideration. The Court denied the motion on that basis during a hearing
5 in October 2021. Dkt. No. 119 at 2:17-22 (hearing transcript). In an ensuing discussion, GRT
6 stated that the logging work authorized by the DTHP would be fully completed by the end of the
7 month. *Id.* at 4:4-18. Plaintiffs did not argue otherwise, and the Court directed the parties to
8 jointly propose a schedule for another motion to dismiss. *Id.* at 5:8-6:15. The Court subsequently
9 adopted the parties' proposed schedule. *See* Dkt. No. 121.

10 GRT now asks to dismiss the FAC under Federal Rules of Civil Procedure 12(b)(1) and
11 12(b)(6). Dkt. No. 122. The thrust of the motion is that plaintiffs have had a full and fair
12 opportunity to litigate their claims, all of the claims were finally adjudicated, and there is nothing
13 left to resolve. GRT also states, without opposition by plaintiffs, that the logging authorized by
14 the DTHP was completed in October 2021, multiple state regulatory agencies signed off on GRT's
15 work, and no new logging within the area covered by the DTHP will occur "within the next 12 to
16 15 years." *Id.* at 2. Plaintiffs' opposition rehashed their prior unsuccessful arguments against res
17 judicata, and made vague references to "continuing harm" from the DTHP that were not supported
18 by plausible factual allegations. *See* Dkt. No. 127 at 3-9, 11.

19 At a hearing in June 2022, the Court pressed plaintiffs about what remained in the case that
20 had not already been resolved in the state court proceedings. Dkt. No. 143 (hearing transcript).
21 The Court noted that the FAC referred to "ongoing logging," when the logging was in fact
22 completed, and that the FAC did not make any allegations of post-harvest problems that were new
23 or different from the claims and harms previously alleged. *Id.* at 4:24-6:18. Plaintiffs did not
24 offer any meaningful facts or arguments in response. Although "deeply skeptical" that further
25 amendment was warranted, the Court gave plaintiffs a final opportunity to file a complaint
26 alleging new and different claims and harms from those already litigated. *Id.* at 10:2-25.

27 Plaintiffs declined to amend. Dkt. No. 142. Rather, they elected to stand on the FAC. *Id.*
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1 On this record, dismissal is warranted. GRT's motion raised a number of standing and
2 mootness arguments, *see* Dkt. No. 122 at 6-7, but there is a more straightforward reason for
3 dismissal. The claims in the original complaint were barred by res judicata. *See Friends of*
4 *Gualala*, 2021 WL 4053413, at *1. Plaintiffs were given multiple opportunities to allege facts that
5 would plausibly state a claim or injury not subject to the res judicata bar. They did not do so.

6 To be clear, dismissal is not based on mootness arising from the fact that the logging work
7 has been completed. An environmental dispute is not necessarily vitiated or made moot just
8 because the challenged project was finished. *See Neighbors of Cuddy Mountain v. Alexander*, 303
9 F.3d 1059, 1065-66 (9th Cir. 2002). The situation here is that plaintiffs fully and finally litigated
10 all of their claims in state court. They have not identified any new or different claims and harms
11 despite multiple opportunities to amend.

12 Consequently, there is nothing left to adjudicate in this case. The FAC is dismissed
13 without prejudice, and the case will be closed.

14 **IT IS SO ORDERED.**

15 Dated: November 16, 2022

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JAMES DONATO
United States District Judge